

Rules and Regulations Implementing the Truth
in Caller ID Act of 2009

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WC Docket No. 11-39

harm, or wrongfully obtain anything of value.”^{3/} As explained by the Commission, the Act and the Commission’s rules implementing it are intended solely to prevent “harmful and dangerous practices” such as “transmit[ting] caller ID information that makes it appear that [miscreants] are calling from consumers’ banks or credit card companies in an attempt to trick call recipients into providing their account numbers or other sensitive information.”^{4/}

In adopting the Act, Congress clearly did not intend to prohibit all use of technology to alter Caller ID information, but only to prohibit harmful and fraudulent uses.^{5/} Legislative history includes ample evidence that Congress did not intend to prohibit use of Caller ID altering technology for legitimate purposes,^{6/} including legitimate business purposes. As the ranking member of the House Communications, Technology and the Internet Subcommittee explained, “[A] wide array of legitimate uses of caller ID management technologies exists today, and this bill protects those legitimate business practices. . . . This bill is not intended to target lawful practices protecting people from harm or serving a legitimate business interest.”^{7/}

Consistent with this clear Congressional intent, the Commission recognizes that there are both “lawful and legitimate instances of caller ID manipulation as well as unlawful and

^{3/} See 47 U.S.C. § 227(e)(1). See also *NPRM*, Appx. A (proposing a new rule at 47 C.F.R. § 64.1604(a) providing that “No person or entity in the United States, shall, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly cause, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information”).

^{4/} *NPRM* ¶ 1.

^{5/} *NPRM* ¶ 7 (“As Congress recognized, not all instances of caller identification manipulation are harmful, and some may be beneficial.”)

^{6/} See, e.g., *NPRM* ¶ 7 (“[D]omestic violence shelters often need to transmit caller ID to complete a call but may have important reasons for not revealing the actual number of the shelter.”) (citing *Truth in Caller ID Act, Report of the Committee on Commerce, Science, and Transportation on S. 30*, 111-96, at 2 (2009) (Senate Commerce Committee Report)).

^{7/} 111 CONG. REC. H8378 (Dec. 15, 2010) (remarks of Rep. Cliff Stearns).

illegitimate caller ID manipulation,”^{8/} and that, for example, its own existing rule allowing telemarketing companies to substitute the name and number of the seller in Caller ID information of a telemarketing call represents a legitimate business reason for altering Caller ID information.^{9/}

The proposed rule proscribes alteration of Caller ID information only when done “with the intent to defraud, cause harm, or wrongfully obtain anything of value,” and not for legitimate business purposes. Nevertheless, in order to avoid any uncertainty the Commission should either add an explicit “legitimate business purpose” exception to the rule or make clear in its order adopting the rule that alteration of Caller ID information for a legitimate business purpose (and without the intent to defraud, cause harm, or wrongfully obtain anything of value) is not prohibited.^{10/}

In particular, the Commission should make clear, either in an exception added to the rule or in its order adopting the rule, that alteration of the Caller ID number to be a number local to the called party is not prohibited and is not deceptive so long as the number displayed, when called, connects the called party to the business placing the call. Consumers benefit when a business caller is able to present them with a local Caller ID number that will best benefit them should they choose to call it to contact the business placing the call. Use of a local number makes the call less impersonal and allows the called party to make a return call without incurring long distance calling charges. Despite the fact that the Caller ID information that presents a local number may have been altered, “[a]ny called party that dials the CPN provided will have the

^{8/} *NPRM* ¶ 21.

^{9/} *See NPRM* ¶ 7 (citing 47 C.F.R. § 64.1601(e)).

^{10/} *See* AT&T Inc. Comments at 8-9; NobelBiz Comments at 3-4; American Teleservices Association Comments at 3-4.

ability to identify [the calling business] as the caller, to determine the reason for the call and to make a do-not-call request (where appropriate).”^{11/}

The legislative history shows that Congress specifically recognized alteration of Caller ID information to provide a local calling number to be among legitimate business practices not intended to be prohibited by the Act.^{12/} As NobelBiz, Inc. notes,^{13/} the Commission has for decades recognized as legitimate the use of foreign exchange (FX) service that “allows a businessman located in one state to, in effect, maintain a local phone in another state.”^{14/} To the extent it has been legitimate and non-fraudulent for a business to present a called party with a local number through use of an FX service, it must be equally legitimate and non-fraudulent to present the called party with a local number through the use of Caller ID alteration technology (so long as the number presented, like the FX number, will connect with the business when called back).^{15/} While the technology used may be different, the lack of harmful effect on the called party remains the same.

CONCLUSION

For the reasons described above, the Commission should clarify, though addition of an exception to its proposed rule or though explicit acknowledgement in the order adopting the rule, that the proposed rule prohibiting alteration of Caller ID information “with the intent to defraud,

^{11/} AT&T Inc. Comments at 8.

^{12/} See 111 CONG. REC. H8378 (Dec. 15, 2010) (remarks of Rep. Cliff Stearns) (“[C]aller ID management services [that] provide a local presence for teleservices and collection companies” represent a “legitimate business practice[]” not intended to be prohibited by the Act.).

^{13/} NobelBiz Comments at 4-7.

^{14/} *Id.* at 5 (quoting *Interconnection Facilities for the Western Union Telegraph Co.*, 53 FCC 2d 1045, n.2 (1975)).

^{15/} See NobelBiz Comments at 6 (“There has never been any basis to believe that FX or FX-like services are harmful merely because the call recipient may perceive the incoming call as being local even though the call in fact originates from outside the calling area.”).

cause harm, or wrongfully obtain anything of value” does not otherwise prohibit alteration of Caller ID information for legitimate business purposes, and specifically does not prohibit substitution of a local calling number that can be used to return a call to the calling party.

Respectfully submitted,

John Tallarico
Vice President, Product Management
SoundBite Communications, Inc.
22 Crosby Drive
Bedford, MA 01730
(781) 897-2500

/s/Howard J. Symons
Howard J. Symons
Ernest C. Cooper
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 434-7300

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